



Town of Loxahatchee Groves
Town Council Meeting
Tuesday, September 3, 2013 at 7:00 p.m.
Loxahatchee Groves Water Control District, 101 West "D" Road

Mayor David Browning (Seat 4)
Vice Mayor Ronald D. Jarriel (Seat 1)
Councilman Tom Goltzené (Seat 5)
Councilman Ryan Liang (Seat 3)
Councilman Jim Rockett (Seat 2)

Town Manager Mark Kutney
Town Clerk Susan A. Eichhorn
Town Attorney Michael D. Cirullo, Jr.

MINUTES

1. OPENING

a. Call to Order & Roll Call

Mayor Browning called the meeting to order at 7:00 pm. Present were Mayor David Browning, Vice Mayor Ronald D. Jarriel, and Councilmen Tom Goltzene and Ryan Liang. Councilman Jim Rockett arrived at 7:10 p.m. Also present were Town Manager Mark Kutney, Perla D Underwood, UMSG, Town Attorney Michael D. Cirullo, Jr., and William F. Underwood, UMSG.

b. Pledge of Allegiance & Invocation – Mayor Browning

c. Approval of Agenda

MOTION: Vice Mayor Jarriel requested that Item 2.c. is removed from the Consent Agenda for discussion immediately after the Consent Agenda as Item 3. New Business Item Item a. Mayor Browning requested that LGWCD Supervisor John Ryan had brought forward a time-sensitive issue relative to the taxing of Palm Beach State College. Councilman Goltzené made a motion to add the Palm Beach State College taxation item as New Business, Item 12.b. The motion was seconded by Councilman Liang. Councilman

Liang made a motion to approve the Agenda as amended. The motion was seconded by Councilman Goltzené. The motion passed 4/0.

2. CONSENT AGENDA

- a. Invoice from Goren, Cherof, Doody & Ezrol, P.A.
- b. Minutes for Approval: Minutes of August 6, 2013; August 20, 2013 – [*Postponed to next September 17, 2013 Town Council*]
- c. Renewal of Annual Contracts [Tew & Taylor, Inc.; Frank Schiola, Consultant Public Works Services] (*Clerk's note: this item was removed from Consent Agenda and added to the Regular Agenda as 3. New Business, Item a. – see Approval of Agenda*)

MOTION: Councilman Liang made a motion to approve the Consent Agenda as amended. The motion was seconded by Councilman Goltzene. The motion passed 4/0.

3. NEW BUSINESS

- a. Discussion of Renewal of Annual Contracts [Tew & Taylor, Inc.; Frank Schiola, Consultant Public Works Services.

Vice Mayor Jarriel questioned sections 2.3 and 4.3 and requested clarification on the Contract with Frank Shiola. Vice Mayor Jarriel stated that he feels the contract requires the contractor to include the use of equipment rather than charge the Town an hourly rate for equipment rentals as is currently done by Mr. Schiola.

Town Manager Kutney advised that in the past, Mr. Schiola provides services requested by the Town Manager, and is reimbursed by the Town for supplies and equipment used in the performance of his assignments.

Following further discussion relative to reimbursements and what should be included as part of the Contractor's hourly service charge, Town Manager Kutney advised that if the Town Council believes that the Contractor was not entitled to reimbursement for equipment and supplies needed to complete assignments, Mr. Schiola would be required to purchase the street signs as part of his monthly contractual charge, as street signs would be considered materials.

Vice Mayor Jarriel stated that he does not want the Town to pay for rental equipment.

Councilman Rockett advised that it was his suggestion that the cost of equipment rentals be included in the Contractor's monthly invoicing, and explained his reasoning on the matter.

Councilman Rockett advised that he believes it is expensive for Mr. Schiola to supervise contractors as he feels the Town Manager should be supervising contracts as part of the Management Contract. Councilman Rockett advised that there are a lot of items that are not being done by the Town's Management.

Following discussion, **Councilman Rockett moved to exclude contract monitoring with the exception of Waste Pro from the Schiola Contract.** Town Attorney Cirullo advised that when preparing the Contract, he provided the Management with flexibility to use the Contractor as needed.

Motion failed for lack of a second.

Motion: Following discussion Vice Mayor Jarriel Moved, Seconded by Councilman Goltzene to approve the renewal of the Tew and Taylor, and Frank Schiola Contracts as presented for the period beginning October 1, 2013, and ending September 30, 2014. The motion passed unanimously, 5/0.

3. PUBLIC COMMENT

4. PRESENTATIONS - None

4. COMMITTEE REPORTS

- a. Finance Advisory & Audit Committee (FAAC) Report and Approval of the July 2013 Financial Reports – *Committee Member Virginia Standish*

FAAC Member Virginia Standish provided the Town Council an overview of the July 2013 Financial Report. Member Standish advised that the FAAC had requested the Town Council consider requesting assistance from the Florida League of Cities with respect to effective and efficient governments to included financial benefits, and exploring lending programs to assist potential residential buyers.

Councilman Rockett made a motion, seconded by Councilman Goltzene to approve the July Financial Reports as submitted. Councilman Goltzene pointed out that a trend is developing of monthly deduction in the cash balances. The motion passed 5/0.

Councilman Rockett questioned if the Town's banker can assist with providing a program for local buyers. Councilman Goltzene stated that he felt real estate agencies should be providing that service to potential buyers. Bill Underwood, UMSG advised that there are lending programs using banking consortiums that provide such functions.

6. PUBLIC HEARINGS – First Public Hearing 2013-2014 TENTATIVE MILLAGE

a. Resolution No. 2013-10

A RESOLUTION OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, ESTABLISHING THE TENTATIVE MILLAGE FOR THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, PURSUANT TO THE BUDGET SUMMARY FOR THE FISCAL YEAR 2013-2014, IN ACCORDANCE WITH CHAPTER 200, FLORIDA STATUTES, AS AMENDED; SETTING FORTH THE DATE, TIME AND PLACE FOR THE SECOND AND FINAL PUBLIC HEARING TO ADOPT THE TOWN'S MILLAGE RATE FOR THE FISCAL YEAR 2013-2014 AND DIRECTING PUBLICATION OF NOTICE THEREOF; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICT; PROVIDING FOR AN EFFECTIVE DATE.

Town Attorney Cirullo read Resolution No. 2013-10 by title, as printed above.

Town Attorney Cirullo advised the Council on the requirements for procedures in this matter. He advised that if the Council is to set the tentative millage at 1.5 , this would reflect an increase of 16% of rolled back rate of 1.2845, and as such would need a unanimous vote of the Town Council for approval.

Town Attorney Cirullo advised that back in July he requested a ruling from the Florida Department of Revenue (FDOR) on the Town's requirements as it relates to the 3-mill equivalence. The Attorney advised that the FDOR has advised that the Town's Charter adopted by special act of the Legislature does not require the Town to meet the 3 mill requirement of Florida State Statutes 218.

Councilman Rockett advised that going to 1.5 was only to meet the equivalence. **Councilman Rockett moved, seconded by Vice Mayor Jarriel to set the tentative millage at 1.200 mills.**

Public Comment:

John Ryan, 3508 A Road: Recommended the Town eliminate the contingency to balance the budget.

Councilman Goltzene advised that he was not in favor of an increased millage rate, but would like to know that there is no concern with respect to the information we received from the Department of Revenue regarding the requirement of Florida SS 218. Town Attorney advised that FDOR does not give formal opinions. The attorney reported on the review process FDOR used to review the Town's request, and the discussion he had with an FDOR attorney. Mr. Cirullo advised that there are no guarantees, but he concurs

with the decision made by the FDOR attorney. Following discussion, Councilman Rockett thanked John and Elise Ryan for their assistance in this matter.

Motion: Councilman Liang moved, seconded by Vice Mayor Jarriel to adopt Resolution 2013-10 establishing the Tentative Millage at 1.200 mills. The motion passed 5/0.

b. **Resolution No. 2013-11 – TENTATIVE BUDGET**

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, ADOPTING A TENTATIVE BUDGET FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2013 AND ENDING SEPTEMBER 30, 2014; SETTING FORTH THE DATE, TIME AND PLACE FOR THE SECOND PUBLIC HEARING FOR THE ADOPTION OF THE TOWN'S BUDGET FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2013, AND DIRECTING PUBLICATION OF NOTICE THEREOF; PROVIDING FOR SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.

Town Attorney Cirullo stated that the public hearing was opened. Eliminate contingency and will need to make further reduction. Goltzene questioned the lobbyist expenses. Mayor advised that he feels that the lobbyist expenses should be eliminated. Rockett requested that legal be reduced to \$90,000 from \$120,000.00

Mr. Underwood advised that this year's budget is \$120,000 and the Town has expended over \$90,000 through July.

Vice Mayor Jarriel explained that he had requested funding for a lobbyist and explained reasons why it was included. Vice Mayor Jarriel advised that if the residents are not involved in the process that a lobbyist would help in obtaining the approval for the Traffic Light.

Public Comment:

John Ryan, 3508 A Road: Advised that The District used the lobbyist that has been recommended by Vice Mayor Jarriel, by the District with respect to the Special Act for Road acquisition and recommended the Lobbyist. Mr. Ryan further advised that the Lobbyist could also be used in acquiring another Special Act by the District and Town for acquiring roads within the Town.

Vice Mayor Jarriel also reminded the Council that the Town was unable to get grants for trails because there were not easements in place, and as such the Town was not eligible for funding.

Public Comment:

Virginia Standish, 15410 North Road: Voiced her disagreement with respect to the need for a Lobbyist and as well as traffic lights on D Road at Okeechobee and Southern Boulevard. Additionally, she stated that the Town budgeted 1.3 million of the 1.8 million Budget on OGEM road projects and very little for the rest of the community.

Following discussion, **Councilman Rockett moved to reduce Legal expenses by \$30,000, and reduce contingency to balance the budget. Vice Mayor Jarriel seconded the motion. The motion passed, 5/0.**

Councilman Rockett advised that the Town will not be able to contribute to Solid Waste Assessment this year as it provided last year.

Motion: Councilman Liang moved, seconded by Vice Mayor Jarriel to adopt Resolution 2013-11. The motion passed, 5/0.

7. PUBLIC HEARINGS (Ordinances 2nd Reading) – *None*

8. ORDINANCES (1st Reading) - *None*

a. Public Hearing:

9. RESOLUTIONS - *None*

10. ADMINISTRATIVE UPDATE – *Town Manager Kutney*

Town Manager Kutney reminded the Council that the Southern Boulevard Workshop is scheduled for Thursday, September 5, 2013 at 7:00 p.m. at Palms West Chamber of Commerce.

Town Manger Kutney also reported on the FEMA Flood Plain Map FEMA has extended the deadline until November 30, 2013 to provide technical information. Palm Beach County and Palm Beach County League of Cities leading the program. South Florida Water Management District (SFWMD) is revising maps on the C51 canal. Palms West Chamber is involved by getting business owners involved as it will affect them as well.

Reported on Code Enforcement complaint filed by the Loxahatchee Groves Land Owners Association on a specific property on Gruber Lane. The Town Manager detailed the allegations, and advised that he has asked Code Enforcement to move forward, and provided the PBSO with complaint so that it can address the Life Safety issues included in the complaint.

Councilman Goltzené asked that Town Manager Kutney address attendance at the RETGA Meetings. Town Manager Kutney advised that two members (Patrick Painter and David Miles) are not attending meetings, and the Town Council will need to address this in the future. He would verify the terms of the Resolution that created the Committee to determine how many meetings a member could miss. Town Council appointees are Goltzené and Liang.

Councilman Rockett would like to get confirmation on how the millage was entered as 1.2 mills, rather than 1.5 mills. Town Manager Kutney advised that staff members had entered the data as 1.5, and that information goes to the Property Appraiser, and how it got to 1.2 was something that would need to be sorted out with the Property Appraiser. Councilman Rockett suggested that some type of confirmation be acquired from the Property Appraiser that the correct data is in place.

Councilman Rockett questioned if Mr. Yee has no incentive to come forward with respect to the opening on Tangerine. Councilman Rockett advised that he had gone to the area where he saw that the gate had been removed, and if we do not say that Mr. Yee must put the gate back in place, then we are ignoring laws being broken. He stated that would file a code complaint on this matter, and would like the Town Council to rule on this matter of enforcement. He noted that he will be filing a complaint on the property next door, which has now turned into a storage facility. He stated that he believes the Town Council should not ignore this matter.

Councilman Goltzene would like to include that the Plaza is supposed to have a particular percentage of offices, so he hoped that some of the current occupants would be replaced with offices while we are enforcing rules and laws, since we cannot pick and choose.

Town Attorney Cirullo advised that Mr. Yee must be advised that Resolution that governs his Property and he must either go along with that Resolution in the Development Order or seek to request change. Councilman Goltzene commented that it would be better to work directly with Yee rather than using Code Enforcement, and incurring further costs to the Town. Councilman Rockett remarked that he believes that unless Town Council takes action nothing will be done.

He requested that the Planning & Zoning Board review the Residential Enterprise amendment to eliminate foot traffic and that the Town Council include it in the Town Council agenda. Town Manager Kutney replied that it could go to the Planning & Zoning Board on the September 12th and on September 17th to the Town Council for first reading, with second reading at the October 1, 2013, Town Council meeting.

Mayor Browning explained that at the last meeting his comments on the Plaza were based on a practical aspect – that he had nothing to do with approval of that Plaza and that it seemed strange that a guardrail would be put between Mr. Yee's property and Mr. Yee's property. Safety was also considered an access to eliminate traffic on Southern Boulevard; he was not looking to help any individual business or anything else. Councilman Goltzené stated that there were plenty of other violations in the Plaza, and that the Town should not focus on one person or business, but needs to address all.

Town Attorney Cirullo advised that Management was told to stand down on code enforcement on the Plaza, and further direction needs to be made by the Town Council. Vice Mayor Jarriel commented that when the Plaza was built it was built under Palm Beach County rule, and if there were other problems with drinking, etc., in the Plaza the Town needed to get with PBSO. He stated that he believed that a better access to get out of the Plaza onto Southern Blvd. was needed. If code enforcement was started with the Plaza, it would need to be started with everyone. He would like to try to work with Mr. Yee through Management rather than Code Enforcement. He also suggested that the Florida Department of Transportation provide more information on the traffic light on Southern Blvd. and "D" Road.

Mayor Browning discussed the reason for directing Code Enforcement to stand down on the Plaza, which was because of the suddenness of it. Basically a stay was given to the Plaza, and now they have had time to fix many of the things, and the Town Council was still expecting that the violations are addressed. He supported Vice Mayor Jarriel's position to attempt to work with Mr. Yee through management rather than Code Enforcement.

Councilman Rockett moved that the Town Council direct Town Manager Kutney not to act on Code Enforcement on the Plaza with respect to the gate and the storage facility with trucks parked in the area. Councilman Liang seconded the motion.

Public Comment:

Ken Johnson, Collecting Canal Rd.: Addressed the matter as with respect to the widening of Southern Blvd., and that the gate should stay open and residents should sign the Petition on the traffic signal on Southern Boulevard at D Road.

The motion to direct Town Manager Kutney not to act on Code Enforcement in the Plaza with respect to Gate and Storage Facility with trucks parked in the area passed 4/1, on roll call vote with Councilman Rockett casting an opposing vote.

******Recess at 9:00 pm Reconvened at 9:05 pm******

11. OLD BUSINESS

- a. Town Council Discussion and Direction to Staff Regarding the Use of Golf Carts and Dune Buggies on Town Roads

Town Attorney Cirullo advised that he needs Town Council direction on the use of Golf Carts and dune buggies on Town Roads. Vice Mayor Jarriel commend that this should be left alone, and that he does not feel that the Town Council should be dedicating roads for golf carts and

dune buggies and all should be licensed. Discussion took place regarding what equipment golf carts would need to be installed, such as lights, mirrors, etc. Councilman Goltzené would not support this if the residents are not in favor of this matter, and that it was brought forward from the RETGAC for discussion and requests. Councilman Liang also stated that he did not want to penalize property owners that want to use golf carts. Councilman Rockett stated that from a safety perspective this would be dangerous on the roads, but he did not see an issue with use on personal property.

Vice Mayor Jarriel stated that he does believe that Palm Beach Sheriff Office does not ticket those on golf carts on the Town's road currently.

Councilman Goltzené moved to allow golf carts on Town roads by licensed drivers with valid licenses. Councilman Liang seconded the motion.

Mayor Browning advised that signage will be needed.

Public Comment:

Ken Johnson, Collection Canal Rd.: Spoke regarding the safety issues on the matter: No helmets, no seatbelts, no lights. Who will make sure that the golf carts are equipped. How is golf cart going to cross Okeechobee Boulevard. Confusion by residents on what is allowed on Town roads, now. How are you going to prevent from using at night. Signage.

Ann Parker – Collecting Canal Road & B Road: Has same concerns as Mr. Johnson, but feels that if residents want to ride golf carts they should be allowed. Feels the Town should wait on approval at this time.

John Ryan, 3508 A Road: Supports Vice Mayor Jarriel's concerns over safety issues. Feels that Town will open itself up to liability. Requests that the motion is amended to include all the requirements of the state law.

Councilman Liang commented that he does not believe it is the Town's responsibility to ensure that cars are in good working order now, and it was almost the same with a golf cart and he does not feel that the Town is liable. If the motion is passed, residents would be allowed to use the golf carts on the road, but they need to be responsible. Vice Mayor Jarriel advised that if the Town doesn't follow the requirement of State guidelines, the Town will be liable. If we open up Loxahatchee Groves to golf carts, it would put more pressure on PBSO, and the safety factors on a golf cart were different from a car.

Mayor Browning commented that he thought this issue had been blown out of proportion. A licensed driver would be required. Loxahatchee Groves was a very unique community. Nurseries travel up and down the road in slow vehicles, and people tend to watch out for them and slow down. Signs could be posted so that people are aware that they will be sharing the road with golf carts.

Councilman Rockett commented that people should be notified of this, and golf carts would need to be operated in accordance with the motion. He did not see a problem.

Town Attorney Cirullo stated that this would need to be done by ordinance, and he assumed that the motion did not include swamp buggies, and was only for golf carts. Also, the only restriction that the Town Council wanted to add that was different from State law, was that the Town Council wanted to increase the minimum age from 14 to 16, so that the golf cart driver must have a valid driver's license. He also noted that signage would need to include that golf carts were permitted, valid driver's license required or any condition that is put on by the Town Council that was not in the State Statutes. He did not know how many signs were needed, or the cost, but if direction was given by Ordinance that would need to be done. He noted that he had asked that someone review the safety component, and if the Town Council was comfortable with their knowledge that golf carts could be operated safely on Town roads, then that is the direction that would be given to include in the ordinance language. If you wanted to give direction to have certain items reviewed, this would be the time to do that as well.

Mayor Browning stated that input from the public could be heard when the ordinance was before the Town Council. Councilman Rockett also noted that he would also like to have input regarding the costs for signage

The motion to allow golf carts on Town roads by licensed drivers with valid licenses passed 3/2, with Vice Mayor Jarriel and Councilman Rockett opposed.

12. NEW BUSINESS

a. Road Grading of 161st North (*Vice Mayor Jarriel*)

Vice Mayor Jarriel stated that the program on grading is on a quadrant basis, roads will be graded twice a month. 161st Terrace North is the longest road, and he would like it graded at least once a week. Also he would like the 8 loads requested in June on 161st Terrace, as well as the water truck used on 161st Terrace North.

Councilman Rockett suggested that the Town Manager is doing something that the Council did not include in the contract. Town Manager Kutney addressed Councilman Rockett's concerns and questions.

Vice Mayor Jarriel moved that a request for courtesy grading be done when requested, and moved that 161st Terrace be graded once per week. Councilman Liang seconded the motion. The motion passed 5/0.

b. Loxahatchee Groves Water Control District Request Relative to Palm Beach State College

John Ryan, 3508 A Rd.: Requested the Town Council assistance in requesting that the Palm Beach State College consider paying the Loxahatchee Groves Water Control District (LGWCD) assessment.

Vice Mayor Jarriel advised that he has spoken to Dr. Gallon on this matter.

Town Attorney Cirullo advised that the Town Council can direct that he draft a letter in support of the District request.

Vice Mayor Jarriel moved, seconded by Councilman Rockett to instruct Town Attorney Cirullo to draft a letter in support of the LGWCD assessment request, and authorize the Mayor to execute the letter. The motion passed, 5/0.

13. CLOSING COMMENTS

a. Public

Virginia Standish, 15410 North Road: Wanted to bring attention that Palm Beach County this past month had been working on an amendment to their ULDC that specifically addressed livestock being an accessory use to a residence. What was interesting was that they stated that it was permitted in areas that did not have a PUD. Her point was that she thought the Town Council needed to be honest with the residents of Loxahatchee Groves that the majority of the Town Council and the majority of the Planning and Zoning Committee had created a master overlay. A master overlay is for the purposes of development. Thank goodness Palm Beach County ULDC does not apply, because then there would be no longer be livestock in Loxahatchee Groves. This recent ruling of Palm Beach County made it very clear that there was a master PUD development for Loxahatchee Groves, and that it was very clear that you are creating a master development for this community and you are trying to get rid of agriculture, based on what she had seen play out in Palm Beach County.

Bill Klein, 3191 E Road: Inquired about his request concerning gun sales. Does not understand why this matter has not yet been approved. Mr. Klein was advised that the matter is scheduled for consideration by the Planning and Zoning Board on September 12, 2013, and will come back to the Town Council for first reading at the September 17, 2013 Town Council Meeting.

b. Town Attorney

c. Town Council Members

Councilman Goltzené: Thanked everyone.

Vice Mayor Jarriel: Thanked everyone for coming and asked if there is anyone interested in being on RETGAC.

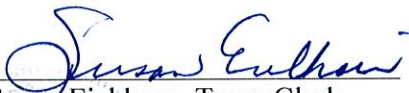
Councilman Liang: Thanked everyone, and said that he would be looking for someone to appoint to RETGAC.

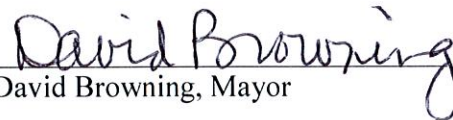
Councilman Rockett: Thanked everyone.

Mayor Browning: Thanked everyone.

14. ADJOURNMENT

There being no further business, the Town Council Meeting of September 3, 2013, was adjourned at 10:15 p.m.


Susan Eichhorn, Town Clerk


David Browning, Mayor

(SEAL)

These minutes were approved at the October 1, 2013, Town Council Meeting